

Issue Paper Number 99-033



BOARD OF EQUALIZATION
KEY AGENCY ISSUE

<input type="checkbox"/>	Board Meeting
<input type="checkbox"/>	Business Taxes Committee
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<input checked="" type="checkbox"/>	Property Tax Committee
<input type="checkbox"/>	Other

REPEAL OF PROPERTY TAX RULES 466, 467, AND 470

I. Issue

Should the Board repeal Property Tax Rules 466, 467, and 470?

II. Staff Recommendation

The Board should repeal Property Tax Rules 466, 467, and 470, all of which have outlived their usefulness as regulations governing the implementation of Proposition 13.

III. Other Alternative(s) Considered

No other alternatives considered.

IV. Background

Following the passage of Proposition 13 in June of 1978, both the Legislature and the Board had to act quickly to implement the ambiguously worded measure. In the three weeks between the June 6 election and the measure's effective date of July 1, the Legislature enacted three bills that, taken together, provided the needed statutory implementation.¹ The Board, meanwhile, adopted a series of rules, effective on July 3, 1978, that addressed more broadly the many assessment issues that were raised. In order to allow for a more thorough evaluation of the implementation issues than was possible in 1978, most of the laws, and all of the rules, were made effective only for the 1978-79 assessment year.

The thorough evaluation was accomplished during 1979 by the Task Force on Property Tax Administration, a broad-based group appointed by the Chairman of the Assembly Revenue and Taxation Committee. In 1979 the Legislature and the Board, acting largely on the basis of the Task Force's recommendations, created a permanent framework for administering the new assessment system mandated by Proposition 13. The Board, for its part, reviewed and re-issued the rules that it had adopted on a temporary basis the previous year. These rules included, among others, Rule 466, *Valuation and Enrollment of Trees and Vines*, Rule 467, *Taxable Possessory Interests*, and Rule 470, *Enforceably Restricted Property*. The text of each of these rules, as published in the Board's Property Taxes Law Guide, is shown in attachments 1-3.

Rules 466, 467, and 470, as well as the remaining rules, were especially needed in light of the uncertainty that surrounded the implementation of Proposition 13. Since 1979, however, the statutes governing the assessment of the types of property covered by these rules have evolved with such specificity that the rules no longer shed any additional light. Moreover, even where illumination of the language in the governing statutes *has* been needed, that has been well accomplished in other, more specific, property tax rules. This obsolescence of Rules 466, 467, and 470 is discussed more fully below.

Rules 466 and 470

Rules 466 and 470 were adopted in furtherance of the Legislature's direction in 1979 that Proposition 13 would not affect certain types of property whose assessment was governed by existing constitutional provisions.² Thus, Rule 466 was adopted to specify that all fruit and nut trees and vines planted in orchard or vineyard form would continue to be exempt, as provided under existing law, for a certain number of years after the initial planting. The rule provided further that such trees and vines, upon becoming subject to taxation, would be assessed under Proposition 13 only where they were planted in land *not* restricted to agricultural use. For trees and vines on land that *was* so restricted, Rule 466 clarified that the "use value" provisions under existing law would continue to apply. The thrust of Rule 470, meanwhile, was to make the more general statement that those same "use value" provisions would continue to be applicable to all other property restricted to agricultural use. Rule 470 also made a statement intended to clarify how to value restricted property where the restrictions had been either (1)

¹ The bills were SB 154 (Chapter 242), SB 2212 (Chapter 332), and SB 1571 (Chapter 353).

² AB 1488

cancelled or (2) terminated by nonrenewal of the contract between the landowner and the county.

The provision in Rule 466 that trees and vines on restricted land are to be valued under the existing “use value” provisions became unneeded in 1979.³ At that time, the Legislature added section 53 to the Revenue and Taxation Code to expressly provide by statute that which the Board had previously declared administratively, when it enacted the series of temporary rules in 1978.⁴ As to the requirement in Rule 466 that trees and vines planted on restricted land be valued without regard to Proposition 13, section 423 of the Revenue and Taxation Code has been amended such that the statute is more explicit and detailed than the rule.⁵

The main provision in Rule 470 became unneeded with the enactment of the same legislation that made Rule 466 obsolete. That is, when the Legislature in 1979 added section 52 to the Revenue and Taxation Code, it placed into statutory law the same verbiage that the Board had previously adopted as part of Rule 470.⁶ As to the provision in Rule 470 that was intended to clarify the treatment of restricted property where the restrictions have been cancelled or terminated by nonrenewal, more specific language in section 51283 of the Government Code, and in section 426 of the Revenue and Taxation Code, respectively, obviate the need for such language in Rule 470. Indeed, the existing language in the rule is inconsistent with the statutory provisions.⁷

Rule 467

Rule 467 was adopted in 1979 to clarify that, for taxable possessory interests, Proposition 13 required that a new base year value be established upon either a change in ownership or new construction. Since then, however, these provisions have been supplanted by amendments to the series of rules governing changes in ownership and the general rule governing newly constructed property. Specifically, Property Tax Rule 462.080, *Change in Ownership—Possessory Interests*, is both more specific and more up-to-date than existing Rule 467. Meanwhile, Property Tax Rule 463, *Newly Constructed Property*, governs the treatment of all newly constructed property,

³ See section 8, article XIII.

⁴ Subdivision (a) of section 53 provides in part that “...the initial base-year value for fruit and nut trees and grapevines subject to exemption pursuant to subdivision (i) of Section 3 of Article XIII of the California Constitution shall be the full cash value of those properties as of the lien date of their first taxable year.”

⁵ Specifically, subdivision (d) of section 423 provides in part that “...the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.”

⁶ Subdivision (a) of section 52 states: “Notwithstanding any other provision of this division, property which is enforceably restricted pursuant to Section 8 of Article XIII of the California Constitution shall be valued for property tax purposes pursuant to Article 1.5 (commencing with Section 421) and Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2.

⁷ Subdivision (a) of section 51283 of the Government Code provides in part that, upon cancellation, “the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction.” Section 426 of the Revenue and Taxation Code, meanwhile, provides that, for lands in nonrenewal, the value is determined by a formula based on either the adjusted base year value or current market value, depending on the status of the land when the restrictions will expire.

including construction associated with taxable possessory interests in publicly owned land.

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends that Rules 466, 467, 470 be repealed, since they have outlived their usefulness as regulations needed to implement the terms of Proposition 13.

B. Pros of the Staff Recommendation

1. Repeal of Rules 466, 467, and 470 would eliminate both redundancy and, to some extent, inconsistency, between the property tax rules and the statutes that the rules are supposed to interpret.

C. Cons of the Staff Recommendation

None

D. Statutory or Regulatory Change

Regulatory change is the essence of the staff recommendation.

E. Administrative Impact

None

F. Fiscal Impact

1. Cost Impact

None.

2. Revenue Impact

None.

G. Taxpayer/Customer Impact

Taxpayers and county assessors will benefit from the elimination of unnecessary and, in some instances, inconsistent regulatory language

H. Critical Time Frames

None.

Prepared by: This paper was prepared by staff in the Property Taxes Department's Policy, Planning, and Standards Division

Current as of: 6/10/99

State of California
BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax

Subchapter 4. Equalization by State Board

Article 3. Taxable Property of a County, City or Municipal Corporation

Rule 466. VALUATION AND ENROLLMENT OF TREES AND VINES.

Reference: Article XIII A, Sections 1 and 2, California Constitution.

All fruit and nut trees and vines when planted respectively in orchard or vineyard form shall be exempt as provided by law. Upon becoming subject to tax, previously exempt trees and vines shall be valued for the 1979 date and thereafter as follows:

(a) Those planted in land enforceably restricted shall be annually valued pursuant to the provisions of Section 470 herein without regard to the provisions of Section 2 of Article XIII A of the California Constitution.

(b) Those planted in land not enforceably restricted shall be enrolled at their base year value appropriately adjusted to reflect annual increases in the consumer price index not to exceed two percent or at their full value for the current lien date, whichever is less.

(1) The base year for trees and vines planted in land not enforceably restricted shall be the year they became subject to taxation unless that year was prior to 1975 in which case the base year is 1975.

(c) Perennials, other than trees and vines, planted for their commercial production on enforceably restricted land shall be valued annually as provided in Section 470. If they are planted on land not enforceably restricted, they shall be valued and have the same base year as the land unless planted after lien date 1975 in which case their value as of the date of planting shall be their original base year value.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

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PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
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Rule 467. TAXABLE POSSESSORY INTERESTS.

Reference: Article XIII A, Sections 1 and 2, California Constitution.

For the 1979 lien date and thereafter the assessor shall ascertain the value of all taxable possessory interests as defined in Section 21 of this code and created prior to March 1, 1975, as of that date. Possessory interests newly created subsequent to March 1, 1975, shall be appraised at their full value as of the date of creation.

Possessory interests renewed, extended, subleased or assigned for any term shall be appraised at their full value as of the date of the renewal, extension, or as of the date the sub-lessee or assignee obtains the right to occupancy or use of the property.

New improvements erected for the purpose of exercising the rights granted by the possessory interest held in land shall be valued as of the date of the completion of construction. When improvements owned by the holder of the possessory interests are in the course of construction for a period that covers more than one lien date, they shall be appraised in accordance with Section 463.

If the current full value of any possessory interest changes for any reason to a value that is less than its base year value appropriately indexed to the lien date for which the roll is being prepared that lower value shall be enrolled.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

State of California
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PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
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Rule 470. ENFORCEABLY RESTRICTED PROPERTY.

Reference: Article XIII A, Sections 1 and 2, California Constitution.

Commencing with the 1979 lien date, all property enforceably restricted pursuant to Section 8 of Article XIII of the California Constitution shall be valued for property tax purposes pursuant to Article 1.5, Open Space Land (commencing with Section 421) and Article 1.9, Historical Property (commencing with Section 439) of Chapter 3 of Part 2 of the Revenue and Taxation Code.

When enforceable restrictions are canceled or terminated by nonrenewal as provided by the Government Code or the Revenue and Taxation Code, the full cash value referred to therein shall be the base year value as modified annually by the inflation rate.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.